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## MUHAMAD MIZAN SAHARI v. PP

COURT OF APPEAL, PUTRAJAYA
HADHARIAH SYED ISMAIL JCA
AHMAD ZAIDI IBRAHIM JCA
AZMI ARIFFIN JCA

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[CRIMINAL APPEAL NOS: B-09(H)-107-03-2022, B-09(H)-108-03-2022, B-09(H)-109-03-2022 & B-09(H)-110-03-2022]
26 JANUARY 2024

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**Abstract** – *The argument on the issue of whether sentences meted out are manifestly excessive or otherwise is not a new argument. It is always of paramount importance, in the administration of criminal justice, to see that the courts below apply the correct judicial principles in the assessment of the sentence and that the punishment meted out is within the sentencing trend for a similar type of offence. What would be the adequate sentence would depend on the particular circumstances of each case.*

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***CRIMINAL PROCEDURE:*** *Sentence – Appeal against – Appeal against imprisonment term – Accused found guilty by Sessions Court for offence of raping minor stepdaughter – Accused sentenced to imprisonment period to run consecutively – Imprisonment period of 1,050 years – Appeal to High Court – High Court allowed appeal and reduced sentence to total of 42 years – Imprisonment to run concurrently – Whether manifestly excessive – Whether sentence had crushing effect on accused – Penal Code, s. 375B*

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***CRIMINAL PROCEDURE:*** *Sentencing – Principles – Factors/circumstances to be considered – Accused found guilty by Sessions Court for offence of raping minor stepdaughter – Accused sentenced to imprisonment period to run consecutively – Total imprisonment period of 1,050 years – Appeal to High Court – High Court allowed appeal and reduced sentence to total of 42 years – Imprisonment to run concurrently – Whether manifestly excessive – Guideline in deciding appropriate sentence for convicted person*

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The appellant was charged, at the Sessions Court, with 105 charges under s. 375B of the Penal Code for raping his stepdaughter, who was 12 years old, at the time of the incident. The appellant pleaded guilty and was convicted as per charged. The Sessions Court Judge ('SCJ') sentenced the appellant to ten years imprisonment from the date of his arrest and two strokes of whipping for each of the said arrest; the sentences were ordered to run consecutively, making the total period of imprisonment 1,050 years. Aggrieved, the appellant appealed to the High Court for the imprisonment term to be shortened and to run concurrently. The High Court Judge ('HCJ') allowed the appeal and reduced the imprisonment period, from the

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cumulative term of 1,050 years, as imposed by the SCJ, to 42 years. The sentences were ordered to run concurrently. As regards the sentence of whipping, notwithstanding a total number of 210 strokes imposed on the appellant, by virtue of s. 288(5) of the Criminal Procedure Code, the appellant, a male adult of 35 years old, was subjected up to a statutory maximum of 24 years only. Hence, the present appeal. In support of his appeal, the appellant submitted that the total term of imprisonment handed down by the HCJ had a crushing effect on him.

**Held (dismissing appeal; affirming conviction and sentences meted out by High Court)**
**Per Azmi Ariffin JCA delivering the judgment of the court:**

**(1)** It is useful, as a guideline, to set out the wide range of factors or circumstances that the court can consider when deciding an appropriate sentence for a convicted person. Some of these factors include: (i) the gravity, seriousness and heinousness of the crime committed; (ii) the victim's age; (iii) whether there was an early plea of guilt or whether the accused claimed trial; (iv) the traumatic experience, emotional harm, humiliation and degradation suffered by the victim; (v) the protection of public interest; (vi) the crushing effect on the accused; (vii) the victim's impact statement; (viii) the strong message to the public of the court's disapproval of this kind of crime; (x) the court not to succumb to emotions and go overboard in passing impossible sentences; (xi) the current trend of sentencing in cases of similar nature; (xii) whether the accused had previous conviction on record or first offender; (xiii) the time spent in remand at the time of sentencing; (xiv) the accused's personal and family background, which may include good character, job, age, marital status, parents, children and other relevant factors; (xv) retribution, deterrence, prevention and rehabilitation; (xvi) whether there was lack of remorse; (xvii) whether there were any physical injuries inflicted on the victim; (xviii) the relationship between the accused and the victim; (xix) whether there was any weapon used and how; (xx) the involvement of violence/no violence/low-level of violence; (xxi) the minimum and maximum sentence prescribed for the offence; (xxii) the number of charges; (xxiii) the planning of the crime; (xxiv) whether there was co-operation with the authorities; (xxv) concurrent or consecutive imprisonment terms; and (xxvi) whether there was the involvement of more than one accused. (para 19)

**(2)** Based on the facts, the appellant's mitigation and the seriousness of the offence, the sentence imposed by the HCJ was not manifestly excessive or inadequate. The HCJ had rightly evaluated and considered the totality of the facts and evidence before imposing the appropriate sentence on the appellant. It could not be said that the HCJ had erred

A in arriving at such decision as His Lordship had taken relevant factors, such as the age of both the appellant and the victim and the appellant, as the guardian of the victim, into consideration. It was perfectly legitimate for the HCJ to interfere with the findings made by the SCJ. The duration of the imprisonment was fair. (paras 9, 11 & 15)

B **Case(s) referred to:**
*Bhandulananda Jayatilake v. PP [1981] CLJU 139; [1981] 1 LNS 139 FC* ***(refd)***
*Mohd Abdullah Ang Swee Kang v. PP [1987] 2 CLJ 405; [1987] CLJ (Rep) 209 SC* ***(refd)***
*Tuan Mat Tuan Lonik v. PP [2009] 4 CLJ 638 CA* ***(refd)***

**Legislation referred to:**
C Criminal Procedure Code, s. 288(5)
Penal Code, s. 376B

*For the appellant - K Annamalai Ramu Kandasamy; Law Practice of KA Ramu*
*For the respondent - Dhiya Syazwani Izyan Mohd Akhir; DPP*

D *[Editor's note: Appeal from High Court, Klang; Criminal Trial No: B-42JSKS-89-02-2021 (affirmed).]*

*Reported by Najib Tamby*

## JUDGMENT

E **Azmi Ariffin JCA:**

### Introduction

**[1]** The appellant was charged with 105 charges for offences under s. 376B of the Penal Code for raping his stepdaughter, who was 12 years old at the
F time of the incident.

**[2]** The appellant pleaded guilty to all the charges. He understood the nature and consequences of his plea. The facts of the case were tendered as exhibit along with other documentary evidence which were admitted as true by the appellant. He was then convicted of the same.
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**[3]** After hearing the mitigation from the appellant and the submission by learned Deputy Public Prosecutor for the respondent, the learned Sessions Court Judge sentenced the appellant to ten years imprisonment from the date of arrest (20 February 2021) and two strokes of whipping for each of the said
H charges. The sentences were to run consecutively, making the total period of imprisonment to be 1,050 years.

**[4]** Aggrieved by the decision, the appellant filed an appeal to the High Court for the imprisonment term be shortened and to run concurrently.

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**Decision Of The High Court**

**[5]** On 7 March 2022, the learned High Court Judge allowed the appellant's appeal and altered the sentence imposed by the learned Sessions Court Judge for being manifestly excessive. From the cumulative term of 1,050 years imposed by the learned Sessions Court Judge, the imprisonment period was reduced to 42 years. The details of the sentence imposed by the learned High Court Judge are as follows:

(i) for the 58 charges of rape that took place in 2018, the appellant was sentenced to 14 years imprisonment from the date of arrest (20 February 2021) for each offence and two strokes of whipping for each offence. In total, he would receive 116 strokes of the rotan. The imprisonment term to run concurrently.

(ii) for the 35 charges of rape that took place in 2019, the appellant was sentenced to 14 years imprisonment from the date of arrest (20 February 2021) and two strokes of whipping for each offence. In total, he would receive 70 strokes of the rotan. The imprisonment term to run concurrently.

(iii) for the 12 charges of rape that took place in 2020, the appellant was sentenced to 14 years imprisonment from the date of arrest (20 February 2021) for each offence and two strokes of whipping for each offence in total, he would receive 24 strokes of the rotan. The imprisonment term to run concurrently.

(iv) the term of imprisonment for the commission of rape that took place in 2018, 2019 and 2020 were to run concurrently.

**[6]** After considering the combined term imprisonment which is to run concurrently, the appellant has to serve 42 years imprisonment from the date of arrest.

**[7]** As regards the sentence of whipping, notwithstanding a total number of 210 strokes were imposed on the appellant, by virtue of s. 288(5) of the Criminal Procedure Code, the appellant being a male adult of 35 years old, is subjected to be whipped up to a statutory maximum of 24 strokes only. Section 288 provides as follows:

> 288. (1) When the accused is sentenced to whipping the number of strokes shall be specified in the sentence. In no case shall the whipping exceed 24 strokes in the case of an adult or ten strokes in the case of a youthful offender, anything in any written law to the contrary notwithstanding.
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> (5) When a person is convicted at one trial of any two or more distinct offences any two or more of which are legally punishable by whipping, the combined sentences of whipping awarded by the court of any such offences shall not, anything in any written law to the contrary notwithstanding, exceed a total number of 24 strokes in the case of adults and ten strokes in the case of youthful offenders.

**[8]** Dissatisfied, the appellant appealed to the Court of Appeal against the sentence for a shorter jail term. His ground is that the total term of imprisonment handed down by the learned High Court Judge had a crushing effect on him.

**Our Decisions**

**[9]** After considering the facts from the notes of proceedings, which require no repetitions, mitigation and the seriousness of the offence, we unanimously find that the sentence imposed by the learned High Court Judge is not manifestly excessive or inadequate. We now give our reasons.

**[10]** In explaining the reason for reducing the imprisonment sentences, the learned High Court Judge, in his ground of judgment, which we reproduce herein below, said:

> [9] Dari segi hukuman, Seksyen 376B Kanun Keseksaan memperuntukkan bahawa hukuman penjara yang boleh dijatuhkan adalah mencapai 30 tahun dan dengan itu, hukuman 10 tahun penjara bagi setiap pertuduhan adalah satu hukuman yang berada di dalam kerangka hukuman yang boleh dijatuhkan oleh Hakim Mahkamah Sesyen bagi pertuduhan ini.
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> [10] Walau bagaimanapun, Hakim Mahkamah Sesyen di dalam kes ini menggunakan budi bicaranya untuk kesemua 10 tahun penjara tersebut berjalan secara berasingan ataupun consecutive dan ini telah menjadikan keseluruhan hukuman penjara mencecah 1050 tahun penjara laltu satu jumlah yang boleh dikatakan sebagai satu rekod untuk pemenjaraan di negara kita.
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> [11] Bagi kes ini, semua pertuduhan melibatkan mangsa yang sama dengan kejadian berlaku di alamat yang sama. Bila diteliti fakta-fakta kes, semua kejadian adalah berlaku dengan cara yang lebih kurang sama.
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> [13] Sehingga kini, tiada nas yang mengatakan bahawa jumlah hukuman yang boleh dijatuhkan oleh sesuatu Mahkamah bagi pertuduhan yang banyak (multiple charges) tidak boleh melebihi suatu angka yang disifatkan sebagai maksima (there is no authority that states that the total amount of imprisonment by the Court for multiple charges should not exceed a certain figure deemed as a maximum).
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> [14] Namun begltu, Mahkamah dalam menjatuhkan hukuman perlu menilai banyak faktor dalam menjatuhkan hukuman dan perlu juga ditekankan di sini dalam mengatakan bahawa hukuman yang telah dijatuhkan adalah keterlaluan ke atas Perayu, namun Mahkamah tidak boleh memandang sepi terhadap nasib yang telah dialami oleh mangsa yang mana di dalam kes ini baru berusia 12 tahun semasa kejadian jenayah bermula.

[15] Di dalam nas *Tuan Mat bin Tuan Lonik v. PP* [2009] 4 CLJ 638 telah dibuat pemerhatian bahawa umur lelaki Malaysia secara puratanya adalah 70 tahun.

[16] Memetik nas tersebut:

> It Is statistically accepted that the average lifespan of a Malaysian man is 70 years old whilst that of a Malaysian woman 75 years. In time the average lifespan will increase that being so with the appellant now 48 years old, on average he has 22 years of good life left. To impose a sentence that will take him until the age of 123 years old and knowing fully well that he will never serve that full term, not only is bizarre but strains the intelligence of the Court. Any illogical sentence may attract unnecessary scrutiny and negative comments from the public on how we awkwardly conduct ourselves.

[17] Nas ini memberi panduan kepada Mahkamah bahawa sesuatu hukuman yang dljatuhkan tidak boleh bersifat tidak logik dan adalah tidak munasabah untuk hukuman yang dijatuhkan melebihi jangka hayat seseorang pesalah.

[18] Namun begitu, terdapat nas yang menunjukkan Mahkamah tidak mengelak dari menjatuhkan hukuman yang amat berat bila ianya bersesuaian dan dibuat dengan pertlmbangan yang betul.

[19] Nas *Abdul Rahim bin Abdul Rahman v. Public Prosecutor* [2010] 8 CLJ 519, adalah dirujuk. Di dalam kes tersebut, OKT menghadapi 22 pertuduhan di bawah Seksyen 377B Kanun Keseksaan terhadap mangsa yang berumur 14 tahun 7 bulan. Pertuduhan berjalan di 2 Mahkamah Sesyen berlainan.

[20] Bagi 10 pertuduhan di hadapan Mahkamah Sesyen 5 hukuman dijatuhkan adalah pemenjaraan untuk tempoh berjumlah 28 tahun manakala di hadapan Mahkamah Sesyen 6 pula menjatuhkan hukuman pemenjaraan untuk tempoh berjumlah 32 tahun untuk 12 pertuduhan lagi. Hukuman penjara adalah berjalan secara consecutive untuk hukuman-hukuman yang dijatuhkan oleh 2 Mahkamah Sesyen tersebut menjadikan tempoh pemenjaraan mencapai 60 tahun. Walaupun dirayu, jumlah hukuman 60 tahun penjara tersebut telah dikekalkan oleh Mahkamah Tinggi dan juga Mahkamah Rayuan.

[21] Di dalam rayuan di hadapan Mahkamah ini, bila diteliti Alasan Penghakiman, Hakim Mahkamah Sesyen seolah-olah tidak mempertimbangkan langsung latar belakang Perayu dalam menjatuhkan hukuman.

[22] Perayu sekarang berumur 34 tahun dan mengambil iktibar daripada keputusan di dalam nas *Tuan Mat Tuan Lonik* tentang had umur seorang lelaki Malaysia, Mahkamah lni mendapatl hukuman 1050 tahun adalah satu hukuman yang sememangnya tidak munasabah kerana ianya tidak mungkin akan dapat dijalani kerana Perayu mustahil akan mencapai umur tersebut. Malahan umur 100 tahun pun jarang dicapai oleh seisi penduduk dunia.

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> [23] Mahkamah dengan ini mendapati bahawa hukuman yang dijatuhkan Hakim Mahkamah Sesyen adalah bersifat suatu "emotional judgment" dan jelas "manifestly excessive". lanya juga adalah nyata suatu hukuman yang berbentuk "crushing sentence" dan oleh itu, campurtangan di peringkat rayuan adalah suatu kemestian.

B **[11]** The learned High Court Judge had rightly evaluated and considered the totality of the facts and evidence before imposing the appropriate sentence on the appellant. We are unable to say that the learned High Court Judge had erred in coming to his decision as he had taken relevant factors such as the age of both the appellant and the victim and the appellant as the guardian of the victim into consideration.

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**[12]** Having cited the case of *Tuan Mat Tuan Lonik* (*supra*) in his written judgment and provided the reasons why he had to reduce the lengthy imprisonment sentence, we find it necessary to take a close look again and reproduce the impeccable reasoning given by the Court of Appeal in that decided case.

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**[13]** What do the case say?

> [5] The appellant is the stepfather of the victim. His acts of raping the victim came to light only when she delivered a baby boy at a hospital on 22 July 2004. The victim's mother promptly lodged a police report of the rape incidents and on 28 July 2004 the appellant was arrested. Investigations revealed that the victim had been raped by the accused since year 2001 when she was only 12 years old. She was last raped in November 2003 when she was 14 years seven months old. The question of consensual defence did not arise here as at the time of the rape incidents she never passed the age barrier of 16 years (s. 376B(b) of the Penal Code).
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> [6] At the Sessions Court after the plea of guilt, and also before the High Court Judge, the appellant had pleaded for leniency, and ventilated regrets for what he had done. He pleaded that he had a family comprising seven children of whom five were his own and two being stepchildren. The eldest child is 17 years old and the youngest nine months old. He ventilated that he supported his parents by sending RM50 to them every month. At the High Court he also pleaded that the sentences run concurrently.
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> [8] The learned High Court Judge found that the punishment imposed by the Sessions Court was not excessive and indeed did commensurate with the seriousness of the offences. The learned judge opined that in these types of offences despite the appellant having pleaded guilty, no amount of mitigating factors could override public interest. The appellant had failed his family, when instead of protecting his step-daughter, had instead taken advantage of her frailty.

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**[14]** Speaking through Suriyadi Halim Omar JCA (as he then was), in a great detailed judgment, His Lordship held as follows: A

> [13] When this panel imposed the above sentences, we had to consider several factors but due to the factual matrix of the case, the factor of public interest was uppermost in our mind. Public interest varies with place, time and circumstances of each case including the age of the B offender and the prevalence of the offence. A certain type of sentence may not satisfy public interest at another place (*New Tuck Shen v. Public Prosecutor* [1982] CLJ 606 (Rep); [1982] CLJ 38; [1982] 1 MLJ 27). The sentence must be deterrent enough, in that the prisoner will realize crime does not pay, with the punishment being debilitating to his freedom. Not only will would-be offenders be deterred from trying but so will it deter C repeat offenders (*Rex v. Kenneth John Ball* [1951] 35 Cr. App. R 164).
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> [14] The concept of retribution akin to 'tooth for a tooth', normally takes front stage if the offence is considered an offence against a member of the public, especially here when a step-daughter has been raped repeatedly since of tender age. Due to the special relationship here between the D victim and the appellant, let alone the rape incidents were repeatedly carried out until an illegitimate child was born, the demand to satisfy society's needs to avenge the wrongful act of the appellant must take centre stage.
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> [16] Likewise it was also timely that we show our abhorrence of E incestuous rape and impose the appropriate sentence in the circumstances of the case. Despite the above supplied facts and prognosis, this panel did not go overboard by ignoring the law or even rationality, and impose impossible sentences. We had occasion to remark in open court that judges should not be blinded by emotion and react emotionally as the law is not as evil as the appellant. In the circumstances of the case, anything F less than 30 years in jail would not suffice to qualify as retributive, hence that span of time ordered against the appellant.
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> [19] In the circumstances of the case, a lenient sentence, or reformative sentences may not be suitable. G
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> [20] The appellant here had pleaded guilty to all the despicable offences committed during those years, when the stepdaughter was his ward. Even though a plea of guilt is a mitigating factor, and some credit or discount is normally given, not all pleas of guilt may be accorded that privilege. A court has the discretion not to entertain such discounts (*Sau Soo Kim* H *v. PP* [1975] 1 LNS 158; [1975] 2 MLJ 134; *Melvani v. PP* [1971] 1 LNS 78; [1971] 1 MLJ 137; *PP v. Sulaiman Ahmad* [1992] 4 CLJ 2283; [1992] 3 CLJ (Rep) 447; *PP v. Ravindran & Ors* [1992] 1 LNS 47; [1993] 1 MLJ 45). It is widely known that incest statistically appears to be on the rise, with the victim getting younger by the day, as reported daily by the local media. And no amount of consensual defence will be accepted, be it on I ground of religion, morality or law. With the facts as they were, let alone

A public interest demands a retributive and deterrent sentence, discounts are not appropriate here (*PP v. Govindnan a/l Chinden Nair* [1998] 2 CLJ 370; *PP v. Dato' Nallakaruppan Solaimalai* [1999] 2 CLJ 596).

[21] The appellant is the authority in the household, and every member of the family would inevitably look up to him, not only for guidance, but
B also protection. Unfortunately, the trust was betrayed when he took advantage of his power of strength by regularly forcing himself on the victim.

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[24] An appellate court will not be overly ready to interfere with any
C sentence imposed by the trial court unless there are very good reasons to do so. For purposes of this case, suffice if we merely peruse the sentences meted down, subsequently to be affirmed by the High Court, from the point of view of logic. It is statistically accepted that the average life span of a Malaysian man is 70 years whilst that of a Malaysian woman 75 years. In time the average life span will increase. That being so, with
D the appellant now 48 years old, on average he has 22 years of good life left. To impose a sentence that will take him until the age of 123 years old, and knowing fully well that he never will serve the full term, not only is bizarre but strains the intelligence of the court. Any illogical sentence may attract unnecessary scrutiny and negative comments from the public on how we awkwardly conduct ourselves.

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[25] With the sentences of the first and second charges to run consecutively, thus factually reducing the length of time of incarceration to 30 years, and with deductions thrown in for good behavior, by the time he is released he will be about 70 years of age *ie*, the average life of a Malaysian man. Even if he lives to smell freedom at that age the
F likelihood of him besetting and causing trauma to anyone is slim. Our orders not only has taken public interest into account but also made the sentence sensible and fair.

[29] Based on all the above reasons we allowed the appeal. We varied the High Court order as we refused to submit to public opinion; public opinion
G is like the sword of Damocles that hover over the head of any trial judge, constantly intimidating the court to surrender to the unreasonable demands of the public

**[15]** Our observation of the above judgment makes it clear that it was perfectly legitimate for the learned High Court Judge to interfere with the
H finding made by the Sessions Court. Therefore, the duration of imprisonment is fair in this light. We find no substantial and compelling reasons for disagreeing with the finding.

**[16]** Turning to the present appeal, we would like to stress that the argument on the issue of whether the sentences were manifestly excessive or
I otherwise is not a new argument. In dealing with this, it is always of paramount importance in the administration of criminal justice to see that the

court below applies the correct judicial principles in the assessment of the sentence and that the punishment meted out is within the sentencing trend for the similar type of offence. What would be the adequate sentence would depend on the particular circumstances of each case.

**[17]** In *Mohd Abdullah Ang Swee Kang v. PP* [1987] 2 CLJ 405; [1987] CLJ (Rep) 209; [1988] 1 MLJ 167, the Supreme Court held that:

> In assessing the length of custodial sentence, the court must look at the overall picture in perspective by considering, firstly, the gravity of the type of offence committed; secondly, the facts in the commission of the offence; thirdly, the presence or absence of mitigating factors, and, fourthly, the sentences that have been imposed in the past for similar offences to determine the trend of sentencing policy, if any. The fact that a sentence of imprisonment is imposed as a deterrence does not justify the sentencer in passing a sentence of greater length than what the facts of the offence warrant. The gravity of the type of offence involved must be considered in the light of the particular facts of the offence.

**[18]** In *Bhandulananda Jayatilake v. PP* [1981] CLJU 139; [1981] 1 LNS 139; [1982] 1 MLJ 83, Raja Azlan Shah Ag LP (as His Royal Highness then was) had occasion to say:

> Is the sentence harsh and manifestly excessive? We would paraphrase it in this way. As this is an appeal against the exercise by the learned judge of a discretion vested in him, is the sentence so far outside the normal discretionary limits as to enable this court to say that its imposition must have involved an error of law of some description? I have had occasion to say elsewhere, that the very concept of judicial discretion involves a right to choose between more than one possible course of action upon which there is room for reasonable people to hold differing opinions as to which is to be preferred. That is quite inevitable. Human nature being what it is, different judges applying the same principles at the same time in the same country to similar facts may sometimes reach different conclusions (see *Jamieson v. Jamieson* [1952] AC 525, 549). It is for that reason that some very conscientious judges have thought it their duty to visit particular crimes with exemplary sentences; whilst others equally conscientious have thought it their duty to view the same crimes with leniency. Therefore, sentences do vary in apparently similar circumstances with the habit of mind of the particular judge. It is for that reason also that this court has said it again and again that it will not normally interfere with sentences, and the possibility or even the probability, that another court would have imposed a different sentence is not sufficient, *per se*, to warrant this court's interference.

**[19]** Finally, to take the points a little further, we find it useful as a "guideline" to set out the wide range of factors or circumstances that the court can consider when deciding an appropriate sentence for a convicted person. Some of these factors include:

A (i) the gravity, seriousness and heinous of the crime committed;

(ii) age of the victim;

(iii) early plea of guilt or claim trial;

B (iv) traumatic experience, emotional harm, humiliation and degradation suffered by the victim;

(v) the protection of public interest;

(vi) crushing effect on the accused;

C (vii) victim's impact statement;

(viii) strong message to the public of the court's disapproval of this kind of crime;

(ix) court not to succumb to emotions and go overboard in passing impossible sentence;

D (x) current trend of sentencing in cases of similar nature;

(xi) previous conviction on record or first offender;

(xii) time spent in remand at the time of sentencing;

E (xiii) accused's personal and family background which may include good character, job, age, marital status, parent, children and other relevant factors;

(xiv) retribution, deterrence, prevention and rehabilitation;

F (xv) lack of remorse;

(xvi) any physical injuries that occurred to the victim;

(xvii) relationship between the accused and the victim;

(xviii) any weapon use and how?;

G (xix) involvement of violence/no violence/low-level of violence;

(xx) the minimum and maximum sentence prescribed for the offence;

(xxi) number of charges;

(xxii) planning the crime;

H (xxiii) co-operation with authorities;

(xxiv) concurrent or consecutive imprisonment terms; and

(xxv) the involvement of more than one accused.

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## Conclusion

**[20]** We find no merits in the appeal. The appeals in R25, R26, R27 and R28 are dismissed.

**[21]** We unanimously affirmed the sentences meted out by the High Court in reducing the total number of imprisonments from 1,050 to 42 years. We affirmed the conviction and sentence by the High Court. The total strokes of whipping from 210 to 24 to bring it to within the limit mandated by the Criminal Procedure Code is also affirmed.